



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
ORANGE COUNTY
FOR
THE ORANGE COUNTY SANITARY LANDFILL
Solid Waste Permit No. 090**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and Orange County, regarding the Orange County Sanitary Landfill, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" or "Landfill" means Orange County Sanitary Landfill, located at 11530 Porter Road in Orange, Virginia, which is owned by Orange County, and operated by R.M. Soderquist, Inc.
5. "Orange" means Orange County, a political subdivision of the Commonwealth of Virginia. Orange County is a "person" within the meaning of Va. Code § 10.1-1400.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
7. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
9. "Permit" means Solid Waste Permit (SWP) No. 090, which was issued under the Virginia Waste Management Act and the Regulations to Orange County on February 26, 1973.
10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*
11. "Sanitary Landfill" means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction demolition debris, and nonhazardous industrial solid waste, as defined in 9 VAC 20-80-10.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.
15. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
16. "Waters of the United States or waters of the U.S." means A). All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; B). All interstate waters, including interstate "wetlands"; C). All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mud flats, sand flats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use,

degradation, or destruction of which would affect or could affect interstate or foreign commerce including: 1. Any such waters which are or could be used by interstate or foreign travelers for recreational or other purposes; 2. Any such waters from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; 3. Any such waters which are used or could be used for industrial purposes by industries in interstate commerce; 4. All impoundments of waters otherwise defined as waters of the United States under this definition; 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition; 6. The territorial sea; and 7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

SECTION C: Findings of Fact and Conclusions of Law

1. On February 16, 1973, Orange County was granted a permit to operate a Sanitary Landfill by the Commissioner of the Virginia Department of Health, predecessor-in-interest to the Director of DEQ. The Permit allows for the disposal of household waste at the Landfill which is located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment.
2. The Facility has operated as a Sanitary Landfill since the permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.
3. On March 17, 2010, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit. Based on the inspection and follow-up information, Department staff made the following observations:
 - a. Several leachate seeps were observed on the sides and bases of the southern and western slopes of the Facility.
 - b. A check dam control measure was installed on the southwestern slopes of the Facility which was diverting run-off towards Sediment Basin No. 1. The Sediment Basin discharges to Clear Creek, which is located in the York River Basin.
 - c. Several severe erosion rills with exposed waste were observed on the sides and bases of the southern and western slopes of the Facility.
4. 9 VAC 20-80-250.B.6 of the VSWMR requires that all facilities be designed to provide and maintain
 - a) A run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm;

- b) A run-off control system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm. Run-off from the active portion of the landfill unit shall be handled in a manner that will not cause the discharge of:
- 1) Pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including but not limited to, the Virginia Pollutant Discharge Elimination system (VPDES) requirements; and
 - 2) Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or state-wide water quality management plan that has been approved under §208 or 319 of the Clean Water Act, as amended.
- c) Drainage structures to prevent ponding and erosion, and to minimize infiltration of water into solid waste cells.
5. 9 VAC 20-80-250.C.11 of the VSWMR requires that owners or operators shall maintain the run-on/runoff control systems designed and constructed in accordance with subdivision B 6 of this section.
6. 9 VAC 20-80-250.C.12 of the VSWMR requires that sanitary landfills shall not
- a. Cause a discharge of pollutants into waters of the United States, including wetlands that violates any requirements of the Clean Water Act, including, but not limited to, the Virginia Pollutant Discharge Elimination System (VPDES) requirements and Virginia Water Quality Standards.
 - b. Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or state-wide water quality management plan that has been approved under §208 or 319 of the Clean Water Act, as amended or violates any requirement of the Virginia Water Quality Standards.
7. 9 VAC 20-80-250.C.2.c of the VSWMR requires that daily cover consisting of six inches of compacted soil or other approved material shall be placed upon and maintained on all exposed solid waste prior to the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging. Alternate materials of an alternate thickness may be approved by the director if the owner or operator demonstrates that the alternate material and thickness control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. At least three days of acceptable cover soil or approved material at the average usage rate should be maintained at the landfill or readily available at all times.
8. 9 VAC 20-80-250.C.2.d. of the VSWMR requires that intermediate cover of at least six inches of additional compacted soil shall be applied and maintained whenever an additional lift of refuse is not to be applied within 30 days. Further, all areas with intermediate cover exposed shall be inspected as needed, but not less than weekly. Additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system.

9. On April 8, 2010, based on the inspection and follow-up information, the Department issued a Notice of Violation to Orange for the violations described in paragraphs C3 through C8 above.
10. On April 26, 2010, Orange submitted a written response to the NOV. The response notified DEQ that Facility personnel met with their engineering consultant on March 23, 2010, following the DEQ inspection, to discuss corrective action for the leachate issues. Orange notified DEQ that their consultant's recommendations had been implemented immediately. The letter also stated that the erosion areas of concern were also addressed and corrected. A follow up inspection of the landfill was conducted on May 21, 2010, and confirmed that all the violations noted in the NOV had been resolved.
11. On June 3, 2010, Department staff met with representatives of Orange to discuss the violations, including Orange's written response to the Notice of Violation.
12. Based on the results of March 17, 2010 inspection, the June 3, 2010 meeting, the Board concludes that Orange has violated 9 VAC 20-80-250.B.6, 9 VAC 20-80-250.C.11, 9 VAC 20-80-250.C.12, 9 VAC 20-80-250.C.2.c and 9 VAC 20-80-250.C.2.d, as described in paragraphs C3 through C8, above.
13. Orange has submitted documentation that verifies, and DEQ staff has inspected the Facility on May 21, 2010, and verified that the violations described in paragraphs C3 through C8, above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Orange, and Orange agrees to pay a civil charge of \$7,665.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Orange shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Orange for good cause shown by Orange, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Orange admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Orange consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Orange declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Orange to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Orange shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Orange shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Orange shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Orange intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Orange. Nevertheless, Orange agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Orange petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Orange.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Orange from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Orange and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Orange certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Orange to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Orange.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Orange voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2nd day of May, 2011.



Thomas A. Faha, Regional Director
Department of Environmental Quality

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Orange County voluntarily agrees to the issuance of this Order.

Date: March 23, 2011 By: Kurt Hildebrand, Director of Public Works.
(Person) (Title)

Commonwealth of Virginia

City/County of Orange

The foregoing document was signed and acknowledged before me this 23rd day of
March, 2011, by Kurt Hildebrand who is
Public Works Director of Orange County on behalf of the County.

Carol J. Faulk
Notary Public

354452
Registration No.

My commission expires: 12/30/12

Notary seal:

